IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CRIMINAL REVISION PETITION NO. 1159/2005

JAGRESH Vs. STATE OF RAJASTHAN

DATE: 15.03.2007.

HON'BLE MR. K.S. RATHORE, J.

Mr. Vipul Jaiman for
Mr. S.S. Sunda for the complainant-petitioner.
Mr. B.S. Chhaba, Public Prosecutor for the State.

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The present criminal revision petition under Section 397 r/w Section 401 Cr.P.C. is preferred by the petitioner against the order dated 27.09.2005 passed by the Additional Sessions Judge No.1, Alwar in Sessions Case No. 03/2005, whereby the application filed by the prosecution under Section 319 Cr.P.C. has been rejected.

The application of the prosecution was rejected only on the ground that prosecution witnesses Jagni, Jagresh, Brijlal and Hukam Singh are interested witnesses, therefore, cognizance against Prabhu Gujar for committing murder has not been taken by the Court below and the application under Section 319 Cr.P.C. has been rejected.

Learned counsel for the petitioner placed reliance on the judgment rendered by the C-ordinate Bench of this Court in the case of **Smt. Bhouti Vs. State of Rajasthan & Anr., reported in 1998 Cr.L.R. (Raj.) 151,** wherein this Court has held that the trial Court tried to appreciate the evidence minutely which is not permissible at this stage.

Learned counsel for the petitioner further relied on the judgment rendered by the Co-ordinate Bench of this Court in the case of **Hajari Ram Vs. State of Rajasthan & Ors., reported in 1999 Cr.L.R.(Raj.) 469,** wherein this Court again has held that if there are sufficient ground to proceed against the accused, the trial Court is directed to call the accused for trial and proceed in accordance with law and reversed the order of the trial Court refusing to take cognizance.

Learned counsel for the petitioner placed some relevant statements of the witnesses before this Court for perusal who prominently taken the name of Prabhu Gujar.

Having heard learned counsel for the petitioner, learned Public Prosecutor for the State and upon careful perusal of the record of the case as also

the impugned order, I find that the Court below has committed wrong while rejecting the application of the prosecution under Section 319 Cr.P.C. and since there is an error apparent on the face of the record committed by the Court below, therefore, I deem it proper to quash and set-aside and order impugned dated 27.09.2005 passed by the Additional Sessions Judge No.1, Alwar and remitted the matter back to the trial Court for fresh adjudication and after thorough consideration if prima-facie prosecution is able to make out any case against Prabhu Gujar, shall pass fresh order in accordance with the provisions of law and in the light of the ratio decided by this Court in the aforementioned cases.

With these observations, the revision petition stands allowed.

Record be sent back forthwith.

(K.S. RATHORE),J.

/KKC/